



December 28, 1999

Mr. Leonard W. Peck, Jr.
Assistant General Counsel
Texas Department of Criminal Justice
P.O. Box 4004
Huntsville, Texas 78701

OR99-3788

Dear Mr. Peck:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 131306.

The Texas Department of Criminal Justice ("TDCJ") received a request for the successful proposal of Sapient Corporation (the "company") and its contract with TDCJ in connection with a TDCJ reengineering project. You advise that TDCJ takes no position with respect to the release of the requested information, but that the company may consider the requested information to be proprietary information protected by section 552.110 of the Government Code. You have notified the company of the request pursuant to section 552.305 of the act.¹

Section 552.110 of the act excepts from disclosure proprietary information, i.e., trade secrets and certain commercial or financial information. Section 552.305 provides for a governmental body's notifying a person who's proprietary information may be subject to a request under the act. The notice must be sent within ten business days of the governmental

¹We note that TDCJ failed to request the decision of this office within ten business days of its receipt of the written request for information as required by section 552.301 of the Government Code. Section 552.302 provides that if a governmental body fails to make the submissions required by section 552.301, the information must be released unless there is a compelling reason for withholding it. Since you argue that the information at issue affects third party interests such as to provide the bases of compelling reasons for withholding the information, we will consider whether it may be withheld. See Open Records Decision No. 150 (1977).

body's receipt of the request. The notice advises the person that he may submit to this office, within ten business days after his receipt of the notice, reasons why the information in question should be withheld from disclosure. Your notice to the company, sent pursuant to section 552.305, is dated November 12, 1999. To date, we have received no response to the notice from the company. Therefore, we have no basis for finding that any of the requested information is proprietary information protected by section 552.110. Accordingly, none of the requested information may be withheld under section 552.110. It must be released.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for

contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in dark ink, appearing to read "William Walker", with a long horizontal flourish extending to the right.

William Walker
Assistant Attorney General
Open Records Division

WMW/ljp

Ref: ID# 131306

Encl. Submitted documents

cc: Mr. Darren Gros
Client Representative
IBM Government Solutions
400 West 15th Street, Suite 1200
Austin, Texas 78701
(w/o enclosures)

Ms. Debra Grey
General Counsel
Sapient Corporation
25 First Street
Cambridge, Massachusetts 02141
(w/o enclosures)